

## Fishery Conservation and Management

## § 635.21

(e) *Sharks*. (1) No person shall take, retain, or possess in the Atlantic EEZ any species classified as a ridgeback LCS shark, taken from its management unit that is less than 54 inches (137 cm), fork length, or, if the head and fins have been removed, 30 inches (76 cm) as a straight line from the first dorsal fin ray to the precaudal pit. If the precaudal pit has been removed, such measurement will be to the posterior edge of the carcass. For the purposes of enforcing the minimum size, it is a rebuttable presumption that any ridgeback shark from which the head and fins have been removed is a ridgeback LCS shark.

(2) All sharks landed under the recreational retention limits specified at § 635.22(c) must have the head, tail, and fins attached and be at least 54 inches (137 cm), FL, except that the minimum size limit does not apply for Atlantic sharpnose sharks.

(f) *Swordfish*. (1) No person shall take, retain, or possess a north or south Atlantic swordfish taken from its management unit that is less than 29 inches (73 cm), CK, or 33 lb (15 kg) dressed weight. A swordfish that is damaged by shark bites may be retained only if the remainder of the carcass is at least 29 inches (73 cm) CK, or 33 lb (15 kg) dw. No person shall import into the United States an Atlantic swordfish weighing less than 33 lb (15 kg) dressed weight, or a part derived from a swordfish that weighs less than 33 lb (15 kg) dressed weight.

(2) Except for a swordfish landed in a Pacific state and remaining in the state of landing, a swordfish, or part thereof, weighing less than 33 lb (15 kg) dressed weight will be deemed to be an Atlantic swordfish harvested by a vessel of the United States and to be in violation of the minimum size requirement of this section unless such swordfish, or part thereof, is accompanied by a certificate of eligibility attesting that the swordfish was lawfully imported. Refer to § 635.46(b) for the requirements related to the certificate of eligibility.

(3) A swordfish, or part thereof, will be monitored for compliance with the minimum size requirement of this section from the time it is landed in, or imported into, the United States up to,

and including, the point of first transaction in the United States.

[64 FR 29135, May 28, 1999, as amended at 64 FR 37704, July 13, 1999]

### § 635.21 Gear operation and deployment restrictions.

(a) *All Atlantic HMS fishing gears*. (1) An Atlantic HMS harvested from its management unit that is not retained must be released in a manner that will ensure maximum probability of survival, but without removing the fish from the water.

(2) If a billfish is caught by a hook, the fish must be released by cutting the line near the hook or by using a dehooking device, in either case without removing the fish from the water.

(b) *General*. No person shall use any gear to fish for Atlantic HMS other than those gears specifically authorized in this part. A vessel using or having on board in the Atlantic Ocean any unauthorized gear may not have on board an Atlantic HMS.

(c) *Pelagic longlines*. For purposes of this part, a vessel is considered to have pelagic longline gear on board when a power-operated longline hauler, a mainline, high-flyers, floats capable of supporting the mainline, and leaders (gangions) with hooks are on board. Removal of any one of these elements constitutes removal of pelagic longline gear. If a vessel issued a permit under this part is in a closed area designated under paragraph (c)(2) of this section with pelagic longline gear on board, it is a rebuttable presumption that fish on board such vessel were taken with pelagic longline gear in the closed area.

(1) From August 1, 1999, through November 30, 2000, no person may deploy a pelagic longline that is more than 24 nautical miles (44.5 km) in length in the Mid-Atlantic Bight.

(2) If pelagic longline gear is on board a vessel issued a permit under this part, persons aboard that vessel may not fish or deploy any type of fishing gear in:

(i) The Northeastern United States closed area from June 1 through June 30 each calendar year;

(ii) In the Charleston Bump closed area from February 1 through April 30 each calendar year;

(iii) In the Florida East Coast closed area at any time beginning at 12:01 a.m. on February 1, 2001; and,

(iv) In the DeSoto Canyon closed area at any time beginning at 12:01 a.m. on November 1, 2000.

(3) When a marine mammal or sea turtle is hooked or entangled by pelagic longline gear, the operator of the vessel must immediately release the animal, retrieve the pelagic longline gear, and move at least 1 nm (2 km) from the location of the incident before resuming fishing. Reports of marine mammal entanglements must be submitted to NMFS consistent with regulations in § 229.6 of this title.

(4) In the Gulf of Mexico: pelagic longline gear may not be fished or deployed from a vessel issued a permit under this part with live bait affixed to the hooks; and, a person aboard a vessel issued a permit under this part that has pelagic longline gear on board shall not maintain live baitfish in any tank or well on board the vessel and shall not possess live baitfish, and shall not set up or attach an aeration or water circulation device in or to any such tank or well. For the purposes of this section, the Gulf of Mexico includes all waters of the U.S. EEZ west and north of the boundary stipulated at 50 CFR 600.105(c).

(d) *Authorized gear*—(1) *Atlantic tunas*. A person that retains or possesses an Atlantic bluefin tuna may not have on board a vessel or use on board the vessel any gear other than that authorized for the category for which the Atlantic tunas or HMS permit has been issued for such vessel. When fishing for Atlantic tunas other than BFT, fishing gear authorized for any Atlantic Tunas permit category may be used, except that purse seine gear may be used only on board vessels permitted in the Purse Seine category and pelagic longline gear may be used only on board vessels issued an Atlantic Tunas Longline category tuna permit as well as ILAPs or LAPs for both swordfish and sharks. When fishing for BFT, a person must use only the gear types authorized for the Atlantic tunas or HMS permit category of the fishing vessel:

(i) *Angling*. Rod and reel (including downriggers) and handline.

(ii) *Charter/Headboat*. Rod and reel (including downriggers), bandit gear, and handline.

(iii) *General*. Rod and reel (including downriggers), handline, harpoon, and bandit gear.

(iv) *Harpoon*. Harpoon.

(v) *Longline*. Longline.

(vi) *Purse Seine*. Purse seine.

(A) *Mesh size*. A purse seine used in directed fishing for BFT must have a mesh size equal to or smaller than 4.5 inches (11.4 cm) in the main body (stretched when wet) and must have at least 24-count thread throughout the net.

(B) *Inspection of purse seine vessels*. Persons that own or operate a purse seine vessel conducting a directed fishery for Atlantic tunas must have their fishing gear inspected for mesh size by an enforcement agent of NMFS prior to commencing fishing for the season in any fishery that may result in the harvest of Atlantic tunas. Such persons must request such inspection at least 24 hours before commencement of the first fishing trip of the season. If NMFS does not inspect the vessel within 24 hours of such notification, the inspection requirement is waived. In addition, at least 24 hours before commencement of offloading any BFT after a fishing trip, such persons must request an inspection of the vessel and catch by notifying NMFS. If, after notification by the vessel, NMFS does not arrange to inspect the vessel and catch at offloading, the inspection requirement is waived.

(vii) *Trap*. Pound net and fish weir.

(2) *Billfish*. (i) Persons may possess a blue marlin or white marlin in or take a blue marlin or a white marlin from its management unit only if it is harvested by rod and reel. Regardless of how taken, persons may not possess a blue marlin or a white marlin in or take a blue marlin or a white marlin from its management unit on board a vessel using or having on board a pelagic longline.

(ii) Persons may possess or take a sailfish shoreward of the outer boundary of the Atlantic EEZ only if it is harvested by rod and reel. Regardless of how taken, persons may not possess or take a sailfish shoreward of the outer boundary of the Atlantic EEZ on

board a vessel using or having on board a pelagic longline.

(3) *Sharks.* (i) No person may possess a shark in the EEZ if the shark was taken from its management unit by any gear other than handgear, longline or gillnet.

(ii) No person may fish for sharks with a gillnet with a total length of 2.5 km or more. No person may have on board a vessel a gillnet with a total length of 2.5 km or more.

(iii) Provisions on gear deployment for the southeast U.S. shark drift gillnet fishery to implement the Atlantic Large Whale Take Reduction Plan are set forth in §229.32(f) of this title.

(iv) While fishing for Atlantic sharks with a gillnet, the gillnet must remain attached to the vessel at one end.

(4) *Swordfish.* (i) No person may possess north Atlantic swordfish taken from its management unit by any gear other than handgear or longline, except that such swordfish taken incidentally while fishing with a squid trawl may be retained, subject to restrictions specified in §635.24(b)(2). No person may possess south Atlantic swordfish taken from its management unit by any gear other than longline.

(ii) An Atlantic swordfish may not be retained or possessed on board a vessel with a gillnet. A swordfish will be deemed to have been harvested by gillnet when it is onboard, or offloaded from a vessel using or having on board a gillnet.

(iii) A person aboard a vessel issued a directed handgear ILAP or LAP for Atlantic swordfish may not fish for swordfish with any gear other than handgear. A swordfish will be deemed to have been harvested by longline when it is on board, or offloaded from a vessel using or having on board longline gear.

[64 FR 29135, May 28, 1999, as amended at 64 FR 37704, July 13, 1999; 65 FR 47238, Aug. 1, 2000]

**§ 635.22 Recreational retention limits.**

(a) *General.* Recreational retention limits apply to a longbill spearfish taken or possessed shoreward of the outer boundary of the Atlantic EEZ, to a shark taken from or possessed in the Atlantic EEZ, and to a yellowfin tuna taken from or possessed in the Atlantic

Ocean. The operator of a vessel for which a retention limit applies is responsible for the vessel retention limit and the cumulative retention limit based on the number of persons aboard. Federal recreational retention limits may not be combined with any recreational retention limit applicable in state waters. The recreational retention limit for sharks applies to a person who fishes in any manner, except to a person aboard a vessel who has been issued a vessel permit under §635.4 for Atlantic sharks. The recreational retention limit for yellowfin tuna applies to a person who fishes in any manner, except to a person aboard a vessel who has been issued a vessel permit under §635.4 for Atlantic tunas in any category other than Angling or Charter/Headboat.

(b) *Billfish.* No longbill spearfish from the management unit may be possessed shoreward of the outer boundary of the EEZ.

(c) *Sharks.* One shark from either the large coastal, small coastal or pelagic group may be retained per vessel per trip, subject to the size limits described in §635.20(d), and, in addition, one Atlantic sharpnose shark may be retained per person per trip. Regardless of the length of a trip, no more than one Atlantic sharpnose shark per person may be possessed on board a vessel. No prohibited sharks listed in table 1(d) of appendix A to this part may be retained.

(d) *Yellowfin tuna.* Three yellowfin tunas per person per day may be retained. Regardless of the length of a trip, no more than three yellowfin tuna per person may be possessed on board a vessel.

[64 FR 29135, May 28, 1999, as amended at 64 FR 37704, July 13, 1999]

**§ 635.23 Retention limits for BFT.**

The retention limits in this section are subject to the quotas and closure provisions in §§635.27 and 635.28.

(a) *General category.* (1) No person aboard a vessel that has a General category Atlantic Tunas permit may possess, retain, land, or sell a BFT in the school, large school, or small medium size class.

(2) On an RFD, no person aboard a vessel that has been issued a General